

Message Text

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ORIGIN DLOS-09

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FM SECSTATE WASHDC
TO USMISSION GENEVA IMMEDIATE

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FOR US DEL LOS

E.O. 11652: N/A

TAGS: PLOS

SUBJECT: GRANDFATHER CLAUSE IN H.R. 3350

1. FOLLOWING IS GRANDFATHER LANGUAGE AS IT APPEARS IN
MARCH 3 COMMITTEE PRINT OF H.R. 3350 BEING USED BY STAFFS
OF THREE COMMITTEES. WHILE OTHER PROVISIONS OF THIS
COMMITTEE PRINT HAVE NOT BEEN MADE AVAILABLE TO THE
ADMINISTRATION, WE HAVE BEEN ASKED FOR FINAL COMMENTS ON
GRANDFATHER LANGUAGE, AND INTERESTED AGENCIES ARE BEING
CANVASSED BY D/LOS. WOULD APPRECIATE YOUR VIEWS ASAP.

2. QUOTE - SEC. 201.DECLARATION OF CONGRESSIONAL INTENT.
IT IS THE INTENT OF CONGRESS- (1) THAT ANY INTERNATIONAL
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AGREEMENT TO WHICH THE UNITED STATES BECOMES A PARTY
SHOULD, IN ADDITION TO PROMOTING OTHER NATIONAL OCEANS
OBJECTIVES -

(A) PROVIDE ASSURED AND NONDISCRIMINATORY ACCESS,
UNDER REASONABLE TERMS AND CONDITIONS, TO THE HARD MINERAL
RESOURCES OF THE DEEP SEABED FOR UNITED STATES CITIZENS,

AND

(B) RECOGNIZE THE RIGHTS OF UNITED STATES CITIZENS WHO HAVE UNDERTAKEN EXPLORATION FOR, OR COMMERCIAL RECOVERY OF,

HARD MINERAL RESOURCES OF THE DEEP SEABED UNDER TITLE I BEFORE SUCH AGREEMENT ENTERS INTO FORCE WITH RESPECT TO THE UNITED STATES TO CONTINUE THEIR OPERATIONS UNDER SUBSTANTIALLY THE SAME TERMS, CONDITIONS, AND RESTRICTIONS AS HAVE BEEN IMPOSED ON THEM UNDER TITLE I AND ANY REGULATION ISSUED THEREUNDER, OR OTHERWISE PROVIDE FOR THE CONTINUATION OF SUCH OPERATIONS IN A MANNER THAT DOES NOT MATERIALLY IMPAIR THE VALUE OF INVESTMENTS THAT HAVE BEEN MADE IN RELATION TO THEM.

(2) THAT THE EXTENT TO WHICH ANY SUCH INTERNATIONAL AGREEMENT CONFORMS TO THE PROVISIONS OF PARAGRAPH (1) SHOULD BE DETERMINED BY THE TOTALITY OF THE PROVISIONS OF SUCH AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE PRACTICAL IMPLICATIONS FOR THE SECURITY OF INVESTMENTS OF ANY DISCRETIONARY POWERS GRANTED TO AN INTERNATIONAL REGULATORY BODY, THE STRUCTURES AND DECISIONMAKING PROCEDURES OF SUCH BODY, THE AVAILABILITY OF IMPARTIAL AND EFFECTIVE PROCEDURES FOR THE SETTLEMENT OF DISPUTES AND ANY FEATURES THAT TEND TO DISCRIMINATE AGAINST EXPLORATION AND COMMERCIAL RECOVERY ACTIVITIES UNDERTAKEN
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BY UNITED STATES CITIZENS; AND (3) THAT THIS ACT SHOULD BE TRANSITIONAL PENDING -

(A) THE ADOPTION OF AN INTERNATIONAL AGREEMENT AT THE UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA, AND THE ENTERING INTO FORCE OF SUCH AGREEMENT, OR PORTIONS THEREOF, WITH RESPECT TO THE UNITED STATES, OR

(B) IF SUCH ADOPTION IS NOT FORTHCOMING, THE TREATY OF A MULTILATERAL OR OTHER TREATY CONCERNING THE DEEP SEABED, AND THE ENTERING INTO FORCE OF SUCH TREATY WITH RESPECT TO THE UNITED STATES. (SIC).

SEC. 202. EFFECT OF INTERNATIONAL AGREEMENT.

IF AN INTERNATIONAL AGREEMENT ENTERS INTO FORCE WITH RESPECT TO THE UNITED STATES, ANY PROVISION OF THIS ACT, AND ANY REGULATION ISSUED THEREUNDER, WHICH IS NOT INCONSISTENT WITH SUCH INTERNATIONAL AGREEMENT SHALL CONTINUE IN EFFECT WITH RESPECT TO UNITED STATES CITIZENS. THE SECRETARY, IN CONSULTATION WITH THE SECRETARY OF STATE, SHALL TAKE ALL NECESSARY MEASURES TO INSURE, TO THE MAXIMUM EXTENT POSSIBLE CONSISTENT WITH THE PROVISIONS

OF SUCH INTERNATIONAL AGREEMENT, THAT THE INTEGRITY OF INVESTMENTS PREVIOUSLY MADE BY UNITED STATES CITIZENS IN CONNECTION WITH DEEP SEABED MINERAL EXPLORATION AND COMMERCIAL RECOVERY IS PROTECTED IN THE IMPLEMENTATION OF SUCH INTERNATIONAL AGREEMENT. THE SECRETARY SHALL SUBMIT TO THE CONGRESS, WITHIN ONE YEAR AFTER THE DATE OF SUCH ENTRY INTO FORCE, A REPORT ON THE ACTIONS TAKEN BY THE SECRETARY UNDER THIS SECTION, WHICH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO -

(1) A DESCRIPTION OF THE STATUS OF DEEP SEABED MINING OPERATIONS OF UNITED STATES CITIZENS UNDER THE INTERNATIONAL AGREEMENT;

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(2) AN ASSESSMENT OF WHETHER UNITED STATES CITIZENS WHO WERE ENGAGED IN DEEP SEABED MINERAL EXPLORATION OR COMMERCIAL RECOVERY ON THE DATE SUCH AGREEMENT ENTERED INTO FORCE HAVE BEEN PERMITTED TO CONTINUE THEIR OPERATIONS UNDER SUBSTANTIALLY THE SAME TERMS, CONDITIONS AND RESTRICTIONS AND, IF APPLICABLE, THE EXTENT TO WHICH THE VALUE OF THEIR INVESTMENTS MAY HAVE BEEN IMPAIRED BY THE IMPLEMENTATION OF THE INTERNATIONAL AGREEMENT; AND

(3) SUCH RECOMMENDATIONS AS THE SECRETARY FINDS ARE NECESSARY TO COMPENSATE UNITED STATES CITIZENS FOR SUCH IMPAIRMENT. UNQUOTE. CHRISTOPHER

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